

Message Text

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PAGE 01 USBERL 02328 01 OF 03 211432Z

44

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TO AMEMBASSY BONN

INFO SECSTATE WASHDC 1681

AMEMBASSY BERLIN UNN

USEC BRUSSELS 0888

AMEMBASSY LONDON

AMEMBASSY MOSCOW

USMISSION NATO

AMEMBASSY PARIS

C O N F I D E N T I A L SECTION 1 OF 3 USBERLIN 2328

LIMDIS

E.O. 11652: GDS

TAGS: PFOR, PGOV, WB, GW, UR, EC

SUBJECT: BERLIN AND DIRECT ELECTIONS TO EUROPEAN PARLIAMENT

REFS: (A) BONN 18334V (B) BONN 18468; (C) EC BRUSSELS 10054;

(D) LONDON 175566; (E) USBERLIN A-104; (F) BONN 18892

1. SUMMARY: MAIN OBJECTIVE OF ALLIES, AS WE SEE IT, SHOULD BE TO
REACH CONSENSUS ON MIDDLE GROUND THAT WOULD CONTINUE TO ALLOW
BERLINERS
MORE RIGHTS IN EC PARLIAMENT THATN THEY HAVE HAD IN BONN'S BUNDESTAG
BUT
WOULD PERMIT US TO DEMONSTRATE THAT WE HAVE RETAINED CONTROL AND
STILL
HAVE OPTION OF EITHER LIBERALIZING FURTHEROR TIGHTENING
UP DEPENDING ON FUTURE DEVELOPMENTS. TO FIND SUCH A MIDDLE
GROUND WILL NOT OF COURSE BE EASY, BUT WE BELIEVE
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PAGE 02 USBERL 02328 01 OF 03 211432Z

IT IS FEASIBLE IF ALLIES WILL APPROACH ISSUE

IMAGINATIVELY AND AVOID EASY GENERALIZATIONS BASED ON NOT NECESSARILY DIRECTLY APPLICABLE PARALLEL OF BUNDESTAG PROCEDURE AND IF GERMANS WILL ESCHEW POLITICAL OPPORTUNISM. END SUMMARY:

2. WE AGREE WITH EMBASSY IT IS NOT REALISTIC TO CONSIDER THEORETICAL OPTIONS OF PULLING BERLINERS OUT OF EC PARLIAMENT OR CONTINUING TO PERMIT THEM TO BE TREATED PRECISELY AS OTHER EC PARLIAMENTARIANS. FORMER WOULD BE SEVERE BLOW NOT ONLY TO BERLIN-BONN TIES BUT ALSO TO ALLIED POSITION IN CITY SINCE IT WOULD BE VIEWED AS MAJOR CONCESSION TO SOVIETS. LATTER WOULD BE CERTAIN TO PROVOKE MAJOR SOVIET CAMPAIGN AGAINST BERLIN-FRG AND BERLIN-EC TIES AT TIME WHEN WE ARE SIMPLY NOT CERTAIN WHAT ROLE EC SHOULD EVENTUALLY PLAY IN CITY'S FUTURE. WHAT WE ARE THEN REALLY TALKING ABOUT IS HOW MUCH OF A DISTINCTION WE HAVE TO MAKE IN HOW BERLINERS GET TO STRASBOURG ONCE EC PARLIAMENT IS DIRECTLY ELECTED AND, PERHAPS, ABOUT WHAT THEY MAY OR MAY NOT DO ONCE THEY ARE THERE. WE THINK THERE IS REAL MERIT IN APPROACH SUGGESTED BY EMBASSY AND BY ALLIES OF PUTTING OFF THIS SECOND QUESTION FOR DETAILED CONSIDERATION ONLY WHEN THE EXTENT TO WHICH EC PARLIAMENT WILL ATTAIN NEW POWERS IS CLEAR. WE ARE ATTRACTED TO FRENCH SUGGESTION THAT ALLIED BK/L OR BK/O AT TIME FRG LAW CONCERNING ELECTIONS IS ADOPTED IN BERLIN CONTAIN GENERAL RESERVATION WHICH WOULD MAKE CLEAR THAT ALLIES RETAIN RIGHT TO PLACE LIMITS ON DEGREE TO WHICH BERLIN REPS MAY PARTICIPATE IN UNSPECIFIED FUTURE PARLIAMENTARY ACTIVITIES AND TO PLACE FURTHER LIMITATIONS ON APPLICABILITY IN BERLIN OF PARLIAMENTARY ACTS. SUCH A GENERAL RESERVATION SHOULD DEMONSTRATE THAT WE ARE KEEPING OPTIONS OPEN AND IT WOULD BE USEFUL FOR SHOWING SOVIETS THAT WE HAVE NOT ABDICATED GOVERNMENTAL RESPONSIBILITIES TO EC. WE ARE GLAD TO SEE THAT BOTH BRITISH AND FRENCH REPS BELIEVE THAT EC WILL MAKE NECESSARY ADJUSTMENTS IF ALLIES AND FRG TELL OTHER MEMBERS THAT SOME RESTRICTIONS ON BERLINERS ARE CONFIDENTIAL

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PAGE 03 USBERL 02328 01 OF 03 211432Z

POLITICAL FACT OF LIFE. ON OTHER HAND, SINCE WE ARE SIMPLY NOT ABLE TO FORESEE AT THIS TIME JUST HOW AND WHEN EC PARLIAMENT WILL EVOLVE, THERE IS NO NEED FOR US TO TRY TO HAMMER OUT MORE SPECIFIC RESERVATIONS ON HOW BERLIN REPS CAN EXERCISE THEIR MANDATE.

3. TRICKIER QUESTION, AND ONE TO WHICH AT LEAST

PRELIMINARY ANSWER MUST BE FOUND MUCH EARLIER, IS HOW BERLIN REPS ARE TO GET THAT MANDATE. HERE WE WOULD ARGUE THAT IT WOULD BE MISTAKE TO ASSUME, AS BRITISH AND FRENCH APPEAR TO BE DOING, THAT BUNDESTAG ANALOGY IS FULLY APPLICABLE. HISTORICALLY, OUR PRIMARY CONCERN WITH BUNDESTAG WAS OVER VOTING RIGHTS IN BUNDESTAG RATHER THAN DIRECT OR INDIRECT ELECTION OF BERLIN DEPUTIES. RESERVATION ABOUT DIRECT ELECTION WAS ONLY APPLIED WHEN IT BECAME APPARENT THAT SENAT INTENDED TO FOLLOW FRG ELECTORAL LAW TO LETTER AND CHOOSE BERLIN' NON-VOTING REPS AT SAME TIME AND IN SAME MANNER AS FRG LAENDER. BECAUSE WE CONCLUDED THIS PARALLELISM WOULD HAVE IMPLIED RATHER TOO MUCH WITH REPSECT TO BERLIN'S RELATIONSHIP TO FEDERATION, WE ISSUED SUBSEQUENT CLARIFICATION THAT IT WAS NOT OUR INTENTION TO HAVE BERLIN'S DEPUTIES CHOSEN DIRECTLY (REF E). LATER RESONS FOR MAINTAINING OUR BANN ON DIRECT ELECTIONS TO THE BUNDESTAG WERE THAT A MODIFICATION WOULD LEAD TO PRESSURES FOR VOTING RIGHTS IN BUNDESTAG AND, SINCE 1972, THAT QA CONTAINED A SPECIFIC REFERENCE TO MAINTAENANCE OF THE STATUS QUO. SINCE WE HAVE NEVER MADE COMMITMENT TO SOVIETS ON WHAT BERLINERS WOULD DO WITH RESPECT TO STRABOURG, WE NEED NOT NECESSARILY BE BOUND BY BUNDESTAG "PRECEDENT." THIS IS ALL THE MORE IMPORTANT SINCE BERLINERS WOULD CONSIDER STRAIGHT APPLICATION OF BUNDESTAG ELECTORAL PROCEDURE A RETREAT FROM PRESENT SITUATION OF BERLIN EQUALITY IN STRASBOURG.

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PAGE 01 USBERL 02328 02 OF 03 211458Z

44

ACTION EUR-08

INFO OCT-01 SS-14 ISO-00 NSC-05 NSCE-00 INR-05 CIAE-00

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INFO SECSTATE WASDC 1682
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C O N F I D E N T I A L SECTION 2 OF 3 USBERLIN 2328

LIMDIS

4. REAL NEED WE HAVE WITH SOVIETS, HOWEVER, IS TO BE ABLE TO SHOW THEM NOT THAT WE ARE GOING TO IMPOSE LIMITATIONS IN STRASBOURG IDENTICAL TO THOSE WE HAVE IMPOSED IN BONN BUT THAT WE ARE MAINTAINING IN EC CONTEXT CRUCIAL POINT THAT BERLIN REMAINS SPECIAL CASE AND IS NOT TO BE TREATED IN SAME MANNER AS LAND OF FRG. SINCE WE ARE UNLIKELY TO BE ABLE (OR DESIRE) TO CATALOG RESTRICTIONS ON WHAT BERLINERS MAY OR MAY NOT DO IN STRASBOURG, AND OUR GENERAL RESERVATION RETAINING FOR OURSELVES RIGHT TO IMPOSE LIMITATIONS AS REQUIRED BY EC PARLIAMENT'S SUBSEQUENT DEVELOPMENT IS NOT IN ITSELF LIKELY TO PERSUADE SOVIETS THAT WE HAVE NOT ALREADY TAKEN MAJOR DECISIONS, HOWEVER, WE AGREE THAT SOME LIMITATION ON BERLIN ELECTIONS IS DESIRABLE, REGARDLESS OF WHETHER FRG DECIDES TO SELECT DEPUTIES BY NATIONAL LIST, REGIONAL LISTS, OR CONFIDENTIAL

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PAGE 02 USBERL 02328 02 OF 03 211458Z

LAENDER LISTS. A POSSIBLE COMPROMISE BETWEEN THE INDIRECT BUNDESTAG PROCEDURE AND DIRECT ELECTIONS MIGHT BE SOMETHING LIKE US SYSTEM UNDER WHICH ELECTORATE CHOOSES ELECTORS WHO PERFORM ACTUAL ELECTION OF PRESIDENT. THIS SYSTEM WOULD ADMITTEDLY BE A BIT AWKWARD IN BERLIN, PARTICULARLY SINCE CITY IS APPARENTLY TO HAVE ONLY TWO REPS. WE COULD, HOWEVER, IMAGINE THAT EACH PARTY MIGHT DESIGNATE ITS FRAKTION IN BERLIN HOUSE OF REPS AS ITS "ELECTORS." EACH PARTY COULD INFORMALLY LET IT BE KNOWN WHICH OF ITS MEMBERS ITS FRAKTION WOULD ELECT JUST AS ITS MAYORAL CANDIDATES ARE NOW KNOWN. VOTERS COULD THEN CAST BALLOTS FOR ELECTORAL SLATES, AND TWO PARTIES RECEIVING HIGHEST NUMBER OF BALLOTS MIGHT THEN EACH SELECT ONE REP FOR PARLIAMENT. IF ELECTION WERE TO BE WINNER-TAKE-ALL RATHER THAN PROPORTIONAL, EACH ELECTORAL SLATE MIGHT BE QUALIFIED TO CAST BALLOTS FOR TWO CANDIDATES. UNDER THIS SYSTEM

BERLINERS WOULD AT LEAST KNOW FOR WHOM THEY WERE VOTING.

5. UNDER THIS SCHEME, PRINCIPLE OF INDIRECT ELECTION WOULD BE MAINTAINED AND WE WOULD BE ABLE TO DEMONSTRATE TO SOVIETS THAT BERLIN, BY UNIQUE NATURE OF ITS ELECTORAL PROCESS, WAS STILL BEING DISTINGUISHED FROM FRG. ON OTHER HAND, WE WOULD BE SIGNALLING THAT WE WERE NOT NECESSARILY BOUND BY QUARTER-CENTURY OLD BUNDESTAG PRECEDENTS IN DECIDING VARIOUS ELEMENTS OF EVOLVING BERLIN-EC RELATIONSHIP, AND BERLINERS AS A WHOLE WOULD BE RECEIVING FOR FIRST TIME RIGHT TO PARTICIPATE IN AN ELECTION THAT HAD MORE THAN PURELY LOCAL SIGNIFICANCE.

6. WHILE SUCH AN ELECTORAL SYSTEM WOULD BE LESS THAN FRG OPTIMUM, WE WOULD HOPE THAT FRG MIGHT SEE IT AS IMAGINATIVE ALLIED EFFORT TO PROVIDE CITY REAL BENEFITS WHILE AT SAME TIME KEEPING WARY EYE ON SOVIET FLANK AND RETAINING AS MANY OPTIONS FOR FUTURE AS I MAKZOUEMAFJSYDGHT EITHER "LEGISLATE" SUCH A SYSTEM OURSELVES IN OUR DOCUMENT OF RESERVATION TO FRG ELECTORAL LAW OR, IF FRG WAS WILLING TO PLAY CONFIDENTIAL

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PAGE 03 USBERL 02328 02 OF 03 211458Z

GAME, IT MIGHT BE WRITTEN INTO FRG ELECTORAL LAW. WE RECALL ORIGINAL FRG LAW ON ELECTIONS TO BUNDESTAG WAS INTENDED TO BE APPLIED WITHOUT CHANGE TO BERLIN. AFTER ALLIES INSISTED UPON INDIRECT ELECTION OF BERLIN DEPUTIES WITHOUT VOTING RIGHTS, HOWEVER, FRG INSERTED SPECIAL SECTION INTO SUBSEQUENT VERSIONS OF ELECTORAL LAW PROVIDING FOR "TRANSITIONAL REGIME" ("UEBERGANGSREGELUNG") WHICH SETS FORTH DETAILED PROCEDURES FOR SELECTION OF BERLIN DEPUTIES BY HOUSE OF REPS. ALLIES MIGHT SOUND OUT FRG TO SEE WHETHER IT WOULD BE PREPARED TO DRAFT SUCH A SPECIAL BERLIN SYSTEM WITH US X Y NEW EC PARLIAMENT ELECTORAL LAW. LIKE BUNDESTAG ELECTORAL LAW'S ARTICLE 54, NEW LAW MIGHT SPECIFICALLY CITE ALLIED RESERVED RIGHTS AND RESPONSIBILITIES (KEYED TO 1954 FRG-ALLIED TREATY OF RELATIONS) AS JUSTIFICATION FOR SPECIAL TREATMENT. SUCH A CITATION MIGHT PROVIDE FURTHER EVIDENCE FOR USE WITH SOVIETS THAT ALLIES WERE NOT RELINQUISHING THEIR RIGHTS AND RESPONSIBILITIES.

7. WE APPRECIATE THAT SUCH A SCHEME PRESUPPOSES CLOSE FRG COOPERATION THAT MIGHT NOT BE FORTHCOMING IF EITHER GOVERNMENT OR OPPOSITION PARTIES PREFERRED TO USE EC PARLIAMENTARY ELECTION ISSUE IN NEXT YEAR'S BUNDESTAG CAMPAIGN. THERE MAY BE TWO WAYS

TO DEAL WITH THIS TEMPTATION. WE WONDER WHETHER
THERE MIGHT NOT BE REASON TO SEEK TO REDUCE
TEMPTATIONS FOR OPPOSITION PARTIES TO PLAY POLITICS
WITH THIS ISSUE BY INCLUDING THEM IN CONSULTATIONS
AT APPROPRIATE TIME. QUESTION OF HOW BERLIN REPS
ARE TO BE CHOSEN FOR EC PARLIAMENT IS AFTER ALL
IN REAL SENSE PERSONIFICATION OF GERMAN NATIONAL
QUESTION ON WHICH OPPOSITION PARTIES HAVE
LEGITIMATE RIGHT TO COMMENT, AND THEIR WILLINGNESS
TO REJECT POLITICAL OPPORTUNISM WOULD PERHAPS BE
GREATER IF THEY WERE CONSULTED IN ADVANCE. WE
RECALL ALSO THAT IN LATE 1966 ALLIES CAM UNDER
HEAVY PRESSURE TO PERMIT BERLIN DEPUTIES TO CAST
VOTES IN BUNDESTAG FOR FORMATION OF GOVERNMENT.
SINCE WHETHER OR NOT BERLIN DEPUTIES COULD VOTE WAS
LIKELY TO HAVE REAL MEANING IN CLOSELY-DIVIDED
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PAGE 04 USBERL 02328 02 OF 03 211458Z

ELECTION, US POSITION WAS THAT ALLIES SHOULD NOT

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PAGE 01 USBERL 02328 03 OF 03 211446Z

44

ACTION EUR-08

INFO OCT-01 SS-14 ISO-00 NSC-05 NSCE-00 INR-05 CIAE-00

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TO AMEMBASSY BONN

INFO SECSTATE WASHDC 1683

AMEMBASSY BERLIN UNN

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C O N F I D E N T I A L SECTION 3 OF 3 USBERLIN 2328

LIMDIS

CONSIDER MAKING INNOVATION UNTIL AFTER NEW GOVERNMENT
WAS SELECTED LEST WE BE ACCUSED OF MANIPULATING
INTERNAL GERMAN POLITICS. IF ALLIES CANNOT AGREE
WITH FRG ON SUBSTANTIVE POSITION WITH RESPECT TO EC
PARLIAMENTARY ELECTIONS OVER NEXT FEW MONTHS AND
ISSUE APPEARS LIKELY TO BE DRAGGED INTO POLITICAL
ARENA JUST BEFORE BUNDESTAG ELECTIONS, ALLIES MIGHT
CONSIDER ANNOUNCING THAT IN ORDER TO AVOID CHARGES
THAT THEY WERE INTERFERING IN DOMESTIC POLITICS THEY
WOULD TAKE SUBSTANTIVE POSITION ON THIS QUESTION
ONLY AFTER 1976 ELECTIONS. WHILE THIS MIGHT IN
ITSELF BE VIEWED AS CONTROVERSIAL DELAY OF NORMAL
FRG LEGISLATIVE PROCESS AND INTRUSION INTO DYNAMICS
OF EC EVOLUTION, MEERE THREAT TO TAKE SUCH A POSITION
MIGHT BE OF SOME ASSISTANCE IN GETTING GERMANS TO
FACE HARD CHOICES IN RELATIVELY APOLITICAL MANNER.
IT WOULD, OF COURSE, TAKE ON FURTHER PRACTICAL
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PAGE 02 USBERL 02328 03 OF 03 211446Z

MEANING IF NEXT MONTH'S EC SUMMIT FAILS
TO PRODUCE CLEAR MANDATE TO MEMBER STATES TO
IMPLEMENT DIRECT ELECTIONS TO STRASBOURG
PARLIAMENT IN 1978 SINCE URGENCY OF FINDING ANSWER
TO BERLIN PROBLEM NEXT YEAR WOULD THEN BE REDUCED.

8. IN SUMMARY, WE WOULD HOPE THAT ALLIES WOULD
APPROACH PROBLEM WITH VIEW NOT ONLY TO PERMITTING
BERLIN TO CONTINUE TO BE REPRESENTED IN EC
PARLIAMENT BUT ALSO TO CONTINUE TO HAVE SOMETHING
MORE IN STRASBOURG THAN IT HAS IN BONN. WITH
IMAGINATION THERE SHOULD BE WAYS TO GIVE BERLINERS
SENSE OF FORWARD MOTION IN EVOLVING EC WITHOUT
OFFERING SOVIETS LEGITIMATE GROUNDS TO ATTACK US
FOR ABDICATING OUR SPECIAL RIGHTS AND RESPONSIBILITIES.

9. ABOVE VIEW IS OF COURSE IN LAST ANALYSIS BASED
ON POLITICAL NEED FOR BERLIN TO FEEL PART OF
"EUROPE", IF "EUROPE" IS PERCEIVED TO BE MOVING
AHEAD. FOR BERLINERS TO BE TOLD BY THEIR FRIENDS
THEY WILL ALWAYS BE SECOND-CLASS CITIZENS IN EC
WOULD DO MORE THAN GIVE FRG OPPOSITION MATERIAL;
IT WOULD BE PSYCHOLOGICAL JOLT TO CITY. WE BELIEVE
BERLINERS WILL ACCEPT NEED TO BE SINGLED OUT AS

SPECIAL CASE, I.E., NOT A LAND OF FRG, BUT WE
WOULD HOPE THAT THEIR REPS TO EC PARLIAMENT COULD
BE CHOSEN BY A PROCESS INVOLVING SOME PUBLIC
PARTICIPATION AND THAT THEY WILL HAVE CLEAR RIGHTS
IN EC PARLIAMENT. IT IS OBVIOUS SOVIETS WILL NOT
ACCEPT ANYTHING WE DECIDE TO DO ENTHUSIASTICALLY;
THEY DO NOT WANT TO SEE ANY CONNECTION BETWEEN EC
AND BERLIN. OUR POINT BASICALLY IS THAT THE
PSYCHOLOGICAL WELFARE OF THE CITY IN WHICH WE
HAVE INVESTED SO MUCH PRESTIGE SHOULD TAKE
PRECEDENCE OVER LEGAL CONSTRUCTIONS BASED ON THE
NOT ESPECIALLY RELEVANT BUNDESTAG PRECEDENT AND
THE FEAR OF SOVIET RIPOSTE. GEORGE

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